

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **SCRUTINY COMMITTEE** held on 9 October 2017 at 2.15 pm

Present

Councillors

F J Rosamond (Chairman)
Mrs A R Berry, Mrs F J Colthorpe, R Evans,
Mrs B M Hull, Mrs J Roach, T W Snow,
N A Way and Mrs E J Slade

Apologies

Councillor(s)

Mrs H Bainbridge, Mrs C P Daw, Mrs G Doe and
T G Hughes

Also Present

Councillor(s)

C J Eginton, F W Letch and R L Stanley

Also Present

Officer(s):

Stephen Walford (Chief Executive), Andrew Jarrett (Director of Finance, Assets and Resources), Jenny Clifford (Head of Planning, Economy and Regeneration), Kathryn Tebbey (Group Manager for Legal Services and Monitoring Officer), Andrew Busby (Group Manager for Corporate Property and Commercial Assets), Catherine Yandle (Group Manager for Performance, Governance and Data Security) and Julia Stuckey (Member Services Officer)

62 APOLOGIES AND SUBSTITUTE MEMBERS

Apologies were received from Cllr Mrs H Bainbridge, who was substituted by Cllr Mrs E J Slade, Cllr Mrs C P Daw, Cllr Mrs G Doe who was substituted by Cllr R Evans and from Cllr T G Hughes. Cllr Mrs F J Colthorpe joined the Committee as a new Member.

63 PUBLIC QUESTION TIME

Mr K Grantham, referring to item 7 on the agenda and in particular the report that started on page 15 of the documents, said the recommendation is that 'The report be noted'. Will Members please consider if we are not in a situation where that report and what it represents should be the subject of considerable scrutiny and further questions? Has the report addressed the real issues and why we are in this position?

Is there anything missing from the report which is not in the public domain? It goes from paragraph 4.2.2 to 4.4. It then goes to a heading of 4.3 and then we have 4.5.1. The report has an appendix 1 on pages 23 to 25 of your bundle. Is that list of applications complete? I know of another application 17/01179/MFUL for 29 houses in Willand, which if added to the other two in appendix 1 and all are approved will increase the size of Willand by 21% with little or no improvement to infrastructure. The developers are 'buying' public green open space on existing sites which a

MDDC report shows that Willand has a 64% shortage of under National Guidelines. Are any other sites missing?

Under the heading Legal Implications you are advised about the 5 year land supply. When the submission of the Local Plan Review was first delayed Willand Parish Council, at an open meeting of the Council, questioned Councillor Chesterton, the portfolio holder for Planning, if this delay would have any implications on the likely applications which were not planned for? He assured us that officers were confident that the five year land supply was sound and so he was able to say that it would not be in jeopardy. The Local Plan Review is again being delayed putting more areas of the District at risk of speculative applications. Why were we misled? Who got it so wrong? Who has been held to account?

Mr B Warren, also referring to item 7 on the agenda, and in particular some elements of the report presented said the report sets out risk assessment under paragraph 6 and then sets out some options under paragraph 7 mitigating measures. Is there a hidden policy to try and let these speculative applications go through to try and 'build their way out of trouble'? Are certain communities being 'sacrificed' rather than show that major developments such as the 259 houses for Willand are likely to cause harm thereby negating the assumption under paragraph 14 of the NPPF?

I ask this question as last Tuesday I attended an informal appeal hearing against the refusal of the 259 houses in Willand. Most of the reasons for refusal were provided by Devon County Council on traffic matters. The appellants were represented by a barrister, planning consultant and traffic management consultant with two support staff. They had also submitted a 359 page statement of their case. In contrast MDDC were represented by a part time Area Team Leader Planning Officer supported by a DCC Highways Officer. Councillor Evans was present as a speaker, as was myself to represent the parish. The Planning Officer advised Councillor Evans and myself that she was limited as to what she could say. MDDC had not submitted a statement of case, a fact commented on adversely by the appellant's barrister. DCC had submitted a statement on the traffic reasons for objection. All MDDC had submitted was a copy of the Officers original report to accompany the original decision prepared months before. A lot of this was a detailed response from Willand Parish Council. The MDDC report had been prepared by another officer and made no comment on update information and argument provided by the appellants. MDDC made little or no effort to refute anything said by the appellants nor was there any meaningful attempt made to show what harm this could cause the village. Councillor Evans and myself did our best to redress this but doubt it will carry much weight with the Inspector in the light of the lack of commitment by MDDC Officers. One would have thought that such a major unplanned application would have warranted the attendance of the Head of Planning and the responsible Cabinet Member. Why were they not there?

Mrs Brooks Hocking, representing Crediton Town Council, referring to item 5 on the agenda said having been involved with MDDC officers over the last few years in discussions about the future of the building and having achieved what we thought was a fair outcome that would benefit Crediton residents, the decision from Cabinet not to go ahead but to operate on purely commercial principles was a bit of a shock.

We understand why the Council might want to do this, but before you do, I just want to ask if you are aware of the results this will mean for Crediton. Currently the

Crediton Council Offices accommodate on a permanent basis, Crediton Town Council; Community Transport and Citizens Advice

In addition, regular users are:

- Churches Housing Action Team
- In Sight Devon
- Crediton Hamlets Parish Council
- Stanbury Court Residents
- DCC Highways Surgeries
- DCC Children's Services
- DCC Independent Review Unit
- Crediton International Social Cultural Organisation (language school)

There is a real social benefit to the clustering of services. Even if the providers I have just listed find other venues, the social hub element will be lost if the building passes out of public ownership. Do you think this is a good thing for community services?

On the open market, just the purchase of the building would result in a 25% increase in the Town's precept in order to complete over 5 years as originally envisaged. Would the District Council be supportive of such a council tax increase for Crediton residents to purchase the building? Do you think this would be a fair way of us securing the building for community use?

We have a 5 year Strategic Plan, which could become severely compromised when competing with the purchase of the building. Is the District supportive of its town councils developing and implementing strategic plans?

Our Neighbourhood Plan consultation shows the Council office building is one of the most appreciated in the town for its local heritage and the services it provides. If the Cabinet decision is applied, we will have six months under the Community Right to Bid to consult with Crediton residents and to look at funding options. This is a very short time in which to try to secure such an important asset. Is this fair treatment of Crediton?

Councillor Peter Heal, at our September Town Council meeting told us that he would be 'very interested to hear our views on joint strategic planning, or wider community engagement processes. A new method of community engagement is something that the council is currently looking into.' He said he 'would welcome our views on the best way to approach this' and he would 'feed these back to the council as appropriate.'

I can shorten the feedback route by telling you that joint strategic planning is what we have been trying to achieve through negotiations so Crediton Town Council can take on more services that MDDC can no longer afford, and provide a community focus for local government. I can assure you that Crediton Town Council is completely open to joint planning.

Our 5 year strategy is to improve and develop the services and facilities for Crediton residents that they have told us they want. Is that a strategy that MDDC would want to support?

The lack of parity with Tiverton Town Council purchasing their Town Hall has already been recognised and so I will make no further comment on this.

64 **MEMBER FORUM**

Cllr T W Snow highlighted that despite having asked that the Minutes of the meeting held on 17th July be amended, this amendment had not been made to the online Minutes. The Monitoring Officer offered to look into this and would report back to the Cllr Snow and the Chairman.

65 **MINUTES OF THE PREVIOUS MEETING**

The minutes of the last meeting were approved as a correct record and **SIGNED** by the Chairman.

66 **DECISIONS OF THE CABINET**

The Chairman informed the Committee that he had called in a decision made by the Cabinet at its meeting on 28th September 2017 for consideration by the Scrutiny Committee in accordance with the Council's Constitution.

The Chairman explained that he had taken this course of action because he felt that the Cabinet was inconsistent in its treatment of the Crediton Office in contrast to the disposal of Tiverton Town Hall (both acquisitions had been a result of the establishment of the Authority in 1974), to the detriment of Crediton Town Council and its community.

The Chairman reminded the Committee that the result of the negotiations with Tiverton Town Council, as stated in the Minutes of the Cabinet of 5th January, were that the Town Council agreed that they would purchase the Town Hall at a cost of £175k (half the price of the valuation), spreading the cost over a 6 year period with no interest payable.

He also informed the Committee that the recommendation by the Cabinet in respect of Crediton Office was:

- 1) To dispose of the Crediton Office at the full market value ("thus providing an opportunity to maximise income and demonstrate value for money")
- 2) To notify the Land Charges service of the intention to sell the Crediton Office building and to inform the local community that the property had been registered as an asset of community value (with the risk "that the Town Council will be required to relocate")

The Chairman added that there was no suggestion as to how that risk would be addressed or supported.

The Chairman said that 'as I understand events, the previous Cabinet meeting of 31 August had before it an option that the building be offered to Crediton Town Council at half the then advised value on similar terms to Tiverton and that negotiations had been conducted with the Town Council to that effect, so much so that provision was made in the Crediton budget via an increased precept to meet the cost over a number of years, comparable to the Tiverton offer. However this potential outcome

was deferred at the Cabinet meeting to allow for further information to be provided prior to a decision being made. Subsequently there was a modest increase in the advised valuation. As a consequence, again as I understand, the Town Council was anxious that their asset could be potentially at risk and therefore applied for its recognition as an asset of community value. Why this application apparently lead to the termination of all previous discussions without the possibility of reaching a successful conclusion is unclear to me. The Leader at the Cabinet meeting of 28th September remarked that it changed the complexion of the negotiations, but did not give further explanation. Crediton Town Council would have wished to continue with negotiations. Certainly the Town Council would not have wanted to put any impediment in the way of achieving a successful outcome, irrespective of its resort to the safety net of an application as a community asset. That now seems to have been denied to them’.

He continued by saying ‘I have not been party to the negotiations and understandably my knowledge is incomplete. However, I believe the Cabinet decision would seriously diminish the range of services available to Crediton Town Council and its community, in sharp contrast to the treatment of Tiverton Town Council.

It is to address the sense of unequal treatment that I felt that more time was needed to explore the issues in more detail, as hitherto the Cabinet has always been even handed in its relationship with partner councils.

I would therefore wish the following to be considered:

- 1) Whether, how and why the proposed outcome for the future of the Crediton Office changed in 2017 and whether such change was justified on the evidence and information available
- 2) Why the basis for the disposal of the Crediton Office differed from that made for the disposal of Tiverton Town Hall
- 3) To understand what consultation has taken place with interested parties prior to the decision and the outcome of such consultation
- 4) To look at the options put forward to Cabinet to examine the equality impact of such options and then to consider whether there were reasonable alternative options that were not considered.’

The Leader of the Council clarified that the resolutions from Cabinet had not included the words within the brackets in items 1) and d) of the Chairman’s summary of the resolution.

Cllr F W Letch, speaking on behalf of Crediton Town Council informed the Committee that the Town Council had carried out a feasibility study with a view to taking over the building. They had considered registering the building as a community asset but at that stage were advised that there would be little point as they would most certainly be offered the building at half market value. At an earlier Cabinet meeting the matter was deferred for future consideration. The Town Council felt that this gave them time to put a plan in place, having expected the deal to be in line with that agreed with Tiverton Town Council. Cllr Letch pointed out that Tiverton Town Hall had a market value and was currently used for weddings. Cllr Letch did not consider that Crediton and Tiverton had been treated in a similar manner due to differences regarding architectural surveys and whether the premises were considered to be viable for sale for commercial purposes. Crediton Town Council had expected to be offered the

premises for use as a community building, for the use of the Town Council as well as Crediton Hamlets Parish Council and numerous other groups. Cllr Letch urged Councillors not to 'sell of the family silver and live to regret it'.

The Director for Finance, Assets and Resources informed the Committee that at the Cabinet Meeting in July the agenda item regarding this matter had been deferred to allow officers to consider financial viability and they were advised that it was 'borderline' whereas Tiverton Town Hall had been considered to be of little or nil commercial viability due to the sums of investment needed in the building. There were also differences regarding ongoing revenue and maintenance which for Tiverton were far in excess of those predicted for Crediton. Financial regulations meant that the authority had to use due diligence when disposing of assets. The main change since July had occurred when Crediton Town Council registered the building as a community asset. Legislation meant that the Town Council and other bodies would have a six week period to register an interest in the premises and a further 6 months to raise funds for the purchase.

Cllr N A Way, who was also a member of the Town Council, stressed the importance of the building to the community and highlighted the number of community groups that used the premises since the Town Council had taken over running it.

Discussion took place regarding:

- Inconsistencies in the disposal of assets over a number of years;
- Legislation regarding community assets;
- Parish Councils and community groups would be eligible to register for the premises;
- The Asset Management Plan;
- Negotiations would commence at full market value but legislation did not state the sale had to be at market value;
- There would be subsequent decision points for the Cabinet regarding registration of interest and disposing of the asset:

The Chief Executive advised the committee that the Council now had to follow national regulations as per the legislation surrounding the disposal of community assets. Since the requirement to follow this approach was instigated by the actions of Crediton Town Clerk (on behalf of Crediton Town Council), he offered to write to her in order to understand their reasoning. However, the committee did not feel this was necessary.

It was **RESOLVED** that Members were satisfied with the information that had been provided and that the decision of the Cabinet taken in relation to this issue on 28 September 2017 should stand. Members recognised the responsibility of both Crediton Town Council and this authority to operate within the legislation laid down and to move forward in a proactive way.

(Proposed by the Chairman)

It was further **RESOLVED** that this Committee review procedures currently in place for the disposal of community assets to the market place, including a review of what had taken place in the past.

(Proposed by Cllr Mrs J Roach and seconded by Cllr N A Way)

Note: - i) Report * previously circulated and attached to Minutes.

ii) Cllr N A Way declared a personal interest as he was a member of Crediton Town Council.

67 CHAIRMAN'S ANNOUNCEMENTS

The Chairman made reference to Strategic Thinking training for Members that had taken place the previous week and informed the Committee that the Chief Executive would be circulating the outcomes. The Chairman informed the Committee that he had found the training to be very useful.

68 5 YEAR HOUSING LAND SUPPLY

At the request of the Chairman the Committee had before it and **NOTED** a report * from the Head of Planning, Economy and Regeneration providing an update on the position of the Council over the 5 year housing land supply and any implications upon it of the recent deferment of Local Plan Review examination sessions.

The officer outlined the contents of the report, explaining that in respect of housing supply, the National Planning Policy Framework (NPPF) required local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements with an additional buffer of 5% to ensure choice and competition in the market for land. Where there had been a record of persistent under delivery of housing, local planning authorities had to increase the buffer to 20% to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land.

The NPPF also advised that where a five year land supply of deliverable housing sites could not be demonstrated, policies on housing supply should not be considered up to date.

On 11th April 2016, an appeal had been allowed for outline planning permission for 60 houses on approximately 3.5 hectares of agricultural land outside the defined settlement boundary of Uffculme which was not allocated for development. The main issue in determination of the appeal was whether, having regard to the development plan, the NPPF, the housing land supply of the Council and the scale and location of the development, the appeal scheme would constitute a sustainable form of development.

The officer explained that demonstrating supply was not just about housing numbers. Deliverability was key. To be considered deliverable, sites should be available, be a suitable location for development, be achievable (i.e. with a realistic prospect that housing will be delivered within five years) and in particular that development was

viable. Delivery was also important in the context of the record of delivering houses in years prior to the point of appeal. One of the ways that a local planning authority could seek to maintain a supply of deliverable sites was through granting planning permission. The number of planning permissions in the District was currently standing at its highest figure since 2002/03 and 1665 dwellings received planning permission (Monitoring Report Summary to 31st March 2016). Whilst strategic sites had been slower to come forward than expected, this had been offset by the higher number of planning permissions granted overall. Despite this, average annual housing completions had not met the policy COR3 target of 390 or the FOAN target of 370. This lower rate of housing completion was to a large extent a result of factors outside the control of the Council such as the economy, the local housing market, the availability of development funding and commercial decision by housebuilders over permission implementation and build out rates. The Inspector acknowledged a recent dip in completions was a likely result of economic recession and reflected the position nationally together with efforts to bring forward the urban extensions. Nevertheless, his judgement was still informed by past delivery rates.

The Strategic Housing Market Assessment reviewed the whole housing market area within which Mid Devon was located and informed housing policies and strategies by identifying the future quantity of housing needed including breakdown by type, tenure and size. This was considered up to date and was accepted by the Inspector as being the best available evidence at the appeal and the basis upon which to assess housing need. It proposed a higher housing figure from 2013 onwards of 370 dwellings per annum compared with the Core Strategy of 290 dwellings per annum from 2016 onwards. In setting this higher requirement, an equivalent supply was needed. The deliverable supply fell short of this.

The position on these differed between the Council and the applicant at the Uffculme appeal with the latter taking a more pessimistic stance on delivery and using a housing requirement calculation that resulted in more housing being needed within the early years of the current plan period. Differences between a Council and developer over such matters was common and resulted in each party going into the appeal with a different understanding of land supply available.

The Government was currently consulting on a standard method for the calculation of a local authority's housing need, with the intention that a simpler, quicker and more transparent standard approach to assessing local housing need was applied.

The authority had now issued an update to its housing land availability in early October. At the time of writing the report, 5 year housing land supply calculations (including a 20% buffer) indicated that the Council was still currently not able to meet this requirement. Housing land supply was currently considered to be 4.15 years (as compared with the Inspector's estimate of between 4 -4.5 years in April 2016).

The officer outlined appendix 1 which detailed major scale housing applications submitted since 2016 particularly in unplanned locations. She confirmed that there did seem to be 'hotspots' of such applications around Willand, Uffculme, Copplestone and Crediton.

Until the Council could demonstrate a 5 year land supply (with 20% buffer) there would be vulnerability to housing applications coming forward on sites that had not been planned for development. Appeal losses could result in unbalanced distribution

of piecemeal development, development in areas considered unsuitable by the Council, a lower level of funding for affordable housing, community facilities and service infrastructure and additional costs to be borne by the Council. Decision making was also taken out of local control. Houses could now legitimately be put forward by developers on sites not planned for until supply figures were next tested and a new Local Plan was adopted. However Inspector's would continue to assess the sustainability of housing sites coming forward and the extent to which any material harm would result. It was therefore not a free for all on any site.

The officer confirmed the timing of the Local Plan, explaining that having taken legal advice and a review of statements of participants who would take part in the hearings a deferment had been requested to allow an independent review of the major modifications stage sustainability appraisal. This had now been commissioned. The officer was of the view that a delay in the order of 6 months could be expected. This would allow for the assessment to be carried out and reported upon, for a further period of consultation and for the Inspector to reconvene hearing dates having given the required notice period to participants. Efforts would be made to reduce the period of delay as far as possible where there was local control. However it was the Plan Inspector who set dates for examination hearings. The Council can expect to continue to receive housing applications on non-allocated sites during this period.

Mitigating measures that could be taken included advancing the Local Plan Review to adoption, bringing forward further sites for housing development, bringing forward suitable contingency sites, continuing efforts to deliver allocated or appropriate windfall sites, especially the urban extensions at Tiverton and NW Cullompton, entering into pre-application discussions on land not planned for housing to date.

The officer provided the following answers to questions asked during public question time.

The officer apologised that the numbering at section 4 of the report was incorrect but confirmed that there was nothing missing.

With regard to the application for 29 houses that were not listed within the appendix the officer confirmed that this site was an allocation and those listed in the report were for major applications for unplanned sites or sites that had been planned for with larger numbers. The site referred to is an allocated site for affordable housing.

With regard to the delay with the plan and assurances that had been made the officer commented that there had been an emerging situation since those decisions were taken, some over a year ago.

When an application was received for an unplanned site it was looked at on its merits and there was no purposeful approach to 'sacrifice settlements'. Because there was no up to date housing policy, tests from the National Planning Policy Framework (paragraph 14) had to be applied which were to grant planning permission unless adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against framework policies as a whole (assessing negative impacts against positive benefits). There was no free for all and that had been seen with the refusal at appeal of 60 houses at Copplestone, with the Inspector undertaking a similar balance and test.

With regard to the recent appeal and how it had been run the officer informed the Committee that it had been an informal hearing and it was unusual for there to be legal representation at these. The case was handled by a senior officer who was very experienced and knew the site well, accompanied by an officer from Devon County Highways. It was common practice for an officer's report to be submitted as the statement of case given the detailed contents. The Head of Planning Economy and Regeneration considered this to be a sufficient resource and would not expect to attend all such meetings. She also commented that the role of the Authority was to defend the reasons for refusal. Ward Members and the Parish Council could raise areas of concern outside of those reasons.

Discussion took place regarding:

- The number of sites allocated and the number of houses being built;
- The timeline going forward and concerns for unallocated sites in the meantime;
- Concerns that developers would be encouraged to put additional housing on inappropriate sites to increase numbers;
- Hot spots of application activity within the District;
- Whether or not requesting to remove Junction 27 and associated housing from the plan would speed up the process and the lack of credibility this could create;
- The Inspector had considered Junction 27 to be a self-contained package that he wanted to look at separately before looking at the plan in its entirety;
- The Inspector could recommend minor or major modifications, he would also consider whether Junction 27 proposals formed part of the plan to be adopted;
- The need to encourage developers to build houses and investigate reasons why they might not be doing so.

The Chairman thanked the officer for her report.

Note: - i) Report * previously circulated and attached to Minutes.

- ii) Cllr Mrs F J Colthorpe declared a personal interest as she was Chair of the Planning Committee.

69 PERFORMANCE AND RISK

The Committee had before it and **NOTED** a report * from the Group Manager for Performance, Governance and Data Security providing Members with an update on performance against the Corporate Plan and local service targets for 2017-18 as well as providing an update on the key business risks.

The officer outlined the contents of the report.

Discussion took place regarding the number of empty shops in the Tiverton town centre.

Note: - Report * previously circulated and attached to Minutes.

70 **UPDATE FROM WORKING GROUPS**

The Chairman provided an update regarding the AD Working Group, informing Members that the Group had met on one occasion to date and that they had a further meeting planned for the following week. He explained that the topic had been difficult to scope and that it did not include the slurry pit at Crossparks within its remit.

The Chairman also updated the Group on the Partnership Working Group which had been ongoing for a while. He informed Members that the Group needed to reflect on the work undertaken so far and to consider what other areas to look at.

The Chairman of the Consultation Working Group informed the Committee that the consultation undertaken had gone well and that following a planned meeting when the Group would be looking at other consultation that had taken place in the last year, a report would be submitted.

The Chairman of the Homelessness Working Group informed the Committee that they had a meeting planned at which they would meet people that had used or were in the system. They had learned that legislation was changing and that there would be an impact on the authority as a result of this.

71 **FORWARD PLAN**

The Committee had before it and **NOTED** the Cabinet Forward Plan *.

Members were advised that a briefing paper regarding the Tiverton Masterplan would be received at the next meeting.

Note: - Forward Plan * previously circulated and attached to Minutes.

72 **IDENTIFICATION OF ITEMS FOR THE NEXT MEETING**

Cabinet Member for Finance
Performance and Risk
Traveller Sites
Tiverton Masterplan update
DCC Care Homes – update
Strategic Thinking feedback

(The meeting ended at 4.44 pm)

CHAIRMAN